

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY HOWARD,

Plaintiff,

-against-

CIRCADIAN FUNDING, LLC,

Defendant.

22-CV-8692 (JGLC)

ORDER

JESSICA G. L. CLARKE, United States District Judge:

On May 15, 2023, Plaintiff's counsel of record, Keith J. Keogh and Timothy J. Sostrin, of the law firm of Keogh Law, Ltd., moved to withdraw as counsel for Plaintiff, explaining that "Counsel have made repeated attempts to reach Plaintiff since early April, 2023, but have received no response." *See* ECF Nos. 30, 31. The Court granted counsels' motion on May 22, 2023 and stayed the matter until July 24, 2023 to allow Plaintiff time to retain new counsel. ECF No. 34. Plaintiff did not retain new counsel or communicate with the Court during the pendency of the stay. On July 25, 2023, the Court lifted the stay and ordered the parties to file a status update by August 17, 2023. ECF No. 35. Plaintiff did not file anything by the deadline.

On August 21, 2023, the Court ordered that it would dismiss this action if Plaintiff failed to appear and prosecute the matter by September 5, 2023. ECF No. 37. The Court's deadline elapsed and Plaintiff failed to appear, prosecute the matter, and communicate with the Court. The Court provided Plaintiff with another chance to continue prosecuting this matter on September 27, 2023 when it ordered Plaintiff to show cause by October 12, 2023 why he failed to appear and prosecute the matter. ECF No. 39. Again, the deadline elapsed and Plaintiff has failed to comply with the Court's order.

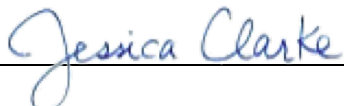
Rule 41(b) of the Federal Rules of Civil Procedure provides that a district court may dismiss an action if “the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order.” Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). “Dismissal for lack of prosecution or for failure to comply with an order of the court is a matter committed to the discretion of the district court.” *Caussade v. United States*, 293 F.R.D. 625, 629 (S.D.N.Y. 2013).

Here, Plaintiff has failed to comply with the Court’s orders and has made no effort to prosecute this litigation since his counsel withdrew in May of 2023. *See* ECF No. 30–34; *Caussade*, 293 F.R.D. at 629 (collecting cases where delays of “several months” warranted dismissal). Plaintiff was given notice on August 21, 2023 and on September 27, 2023 that this action could be dismissed if he did not update the Court as to the status of the case, and he did not. ECF Nos. 37, 39.

Because Plaintiff has failed to comply with this Court’s orders has not indicated that he intends to prosecute this case, the instant action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to terminate all pending motions and close the case.

Dated: October 27, 2023
New York, New York

SO ORDERED.



JESSICA G. L. CLARKE
United States District Judge